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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

DIR 1990-002

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on September 16, 2005Signature Emily ShultzTyped or printed name Emily Shultz

Application Number

Filed

10/664,5269-17-2003

First Named Inventor

Apel, Robert J

Art Unit

3636

Examiner

Garrett

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 33390

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

Stephen L Grant
Signature
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Typed or printed name

614-792-5555
Telephone number

16 Sep 2005
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 10/664,526

Confirm. No.: 4289

Filed: September 17, 2003

Examiner: Erika P. Garrett

Inventor: Robert J. Apel

Art Unit: 3636

Title: DIRECTED LIFESTYLE
RESIDENTIAL HOUSING
STRUCTURES

Atty Docket: DIR 1990-002

REASONS FOR REQUEST FOR PANEL REVIEW

It is not clear to the undersigned whether the Response After Final Rejection, filed 25 August 2005, but not entered by the Examiner, is available for review by the panel. If it is, it sets for the basis for the request for review and attention is directed there. If it is not available, the arguments are summarized as follows:

The Examiner has rejected all claims as anticipated by three US Patents:
4,685,260 to Jenn ("Jenn '260")
4,575,977 to Taylor ("Taylor '977") and
4,007,565 to Finnegan ("Finnegan '565").

In making these three rejections, the Examiner has not met the burden of establishing a *prima facie* novelty rejection case by showing that "each and every element is found, either expressly or inherently described" in any of the cited patents with regard to claim 13, the independent claim in the case.

Jenn '260

Jenn '260 does not show "first and second property lots," although this is required by claim 13. The existence of the property lots cannot be fairly inferred from any statements in Jenn '260. The Examiner has stated at page 5 of the Office Action that the "examiner is of the opinion that Jenn does disclose a first and a second property lot, since the housing arrangement consists of four different living units" in referring to Figs. 2-6. Examiner opinion is not a part of a novelty rejection. The element is either present or not. The existence of different living units does not infer different property lots. Many apartment buildings have "different living units" without being located on different property lots. Jenn '260 has no markings in the figures relied upon that show property lots or property lot lines.

Taylor '977

The Examiner has read the figures to disclose something other than what the specification expressly describes. Reference numerals 22 and 24 do not show separate property lots. These numerals refer to "single family dwellings" (Col. 2, line 2). Taylor '977 does show property lots 18A-18D. However, there are no "first and second independent living units *structurally attached to each other by a commonly shared portion with the common property line passing therethrough.*" Taylor '977 does not anticipate claim 13.

Finnegan '565

The Examiner misconstrues the clear words used in Finnegan '565. Reference numerals 106, 100 are not "first and second property lots." They are defined by Finnegan as "dwellings" at Col 5, lines 16 and 24. No separate first and second property lots are shown in Fig. 4 of Finnegan '565. Figure 4 is a part of a "dwelling module 100", as taught at Col. 5, line 8. Separate property lots are depicted at Fig. 2 as reference numeral 13 (the term used by Finnegan '565 is "main land section") with these units separated by "boundary line 14". Col. 3, line 2. Finnegan '565 states that individual dwellings are "spaced apart in a first U-shaped configuration *within a main*

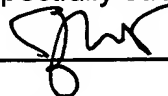
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Reasons for Request for Panel Review

land section 13." Sentence bridging Cols. 2 and 3. This precludes the property lines from passing between the individual living units, as required by claim 13.

Summary

Applicant respectfully requests panel review of the final rejection, based upon the foregoing.

Date: 16 Sept 2005

Respectfully submitted,
By: 

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